

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

| | | |
|--|---|--------------------------------|
| In the Matter of the Accusation |) | |
| Against: |) | |
| |) | |
| |) | |
| William Kermit Fleming, M.D. |) | Case No. 11-2010-211285 |
| |) | |
| Physician's and Surgeon's |) | |
| Certificate No. A 97279 |) | |
| |) | |
| Respondent |) | |
| _____ |) | |


DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 26, 2014.

IT IS SO ORDERED: January 27, 2014.

MEDICAL BOARD OF CALIFORNIA

By: 

Barbara Yaroslavsky, Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 BENETH A. BROWNE
Deputy Attorney General
4 State Bar No. 202679
California Department of Justice
5 300 So. Spring Street, Suite 1702
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6 Telephone: (213) 897-7816
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **WILLIAM KERMIT FLEMING, M.D.**
5721 Crescent Park West, #106
Playa Vista, CA 90094

14 **Physician's and Surgeon's Certificate**
No. A 97279

15 Respondent.
16

Case No. 11-2010-211285

OAH No. 2013020359

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer ("Complainant") is the Interim Executive Director of the
22 Medical Board of California. She brought this action solely in her official capacity and is
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
24 Beneth A. Browne, Deputy Attorney General.

25 2. Respondent William Kermit Fleming, M.D. ("Respondent") is represented in this
26 proceeding by attorney Courtney E. Pilchman, Esq., whose address is: 2030 Main St., Suite
27 1300, Irvine, CA 92614.

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3. On or about September 13, 2006, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 97279 to William Kermit Fleming, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 11-2010-211285 and will expire on January 31, 2014, unless renewed.

JURISDICTION

4. Accusation No. 11-2010-211285 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 6, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 11-2010-211285 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 11-2010-211285. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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/ / /

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 11-2010-211285.

4 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
5 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Medical Board of California.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
10 Board of California may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or his counsel. By signing the
12 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
19 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
20 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

21 13. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice or formal proceeding, issue and enter the following
23 Disciplinary Order:

24 DISCIPLINARY ORDER

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 97279 issued
26 to Respondent William Kermit Fleming, M.D. (Respondent) is revoked. However, the revocation
27 is stayed and Respondent is placed on probation for five (5) years on the following terms and
28 conditions.

1 1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain
2 completely from the personal use or possession of controlled substances as defined in the
3 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
4 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
5 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
6 illness or condition.

7 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
8 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
9 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
10 telephone number.

11 If Respondent has a confirmed positive biological fluid test for any substance (whether or
12 not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall
13 receive a notification from the Board or its designee to immediately cease the practice of
14 medicine. The Respondent shall not resume the practice of medicine until final decision on an
15 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke
16 probation shall be filed by the Board within 15 days of the notification to cease practice. If the
17 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board
18 shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent
19 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or
20 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice
21 shall not apply to the reduction of the probationary time period.

22 If the Board does not file an accusation or petition to revoke probation within 15 days of the
23 issuance of the notification to cease practice or does not provide Respondent with a hearing
24 within 30 days of a such a request, the notification of cease practice shall be dissolved.

25 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
26 use of products or beverages containing alcohol.

27 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall
28 receive a notification from the Board or its designee to immediately cease the practice of

1 medicine. The Respondent shall not resume the practice of medicine until final decision on an
2 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke
3 probation shall be filed by the Board within 15 days of the notification to cease practice. If the
4 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board
5 shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent
6 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or
7 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice
8 shall not apply to the reduction of the probationary time period.

9 If the Board does not file an accusation or petition to revoke probation within 15 days of the
10 issuance of the notification to cease practice or does not provide Respondent with a hearing
11 within 30 days of a such a request, the notification of cease practice shall be dissolved.

12 3. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
13 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
14 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
15 follicle testing, or similar drug screening approved by the Board or its designee. Prior to
16 practicing medicine, Respondent shall contract with a laboratory or service approved in advance
17 by the Board or its designee that will conduct random, unannounced, observed, biological fluid
18 testing. The contract shall require results of the tests to be transmitted by the laboratory or
19 service directly to the Board or its designee within four hours of the results becoming available.
20 Respondent shall maintain this laboratory or service contract during the period of probation.

21 A certified copy of any laboratory test result may be received in evidence in any
22 proceedings between the Board and Respondent.

23 If Respondent fails to cooperate in a random biological fluid testing program within the
24 specified time frame, Respondent shall receive a notification from the Board or its designee to
25 immediately cease the practice of medicine. The Respondent shall not resume the practice of
26 medicine until final decision on an accusation and/or a petition to revoke probation. An
27 accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the
28 notification to cease practice. If the Respondent requests a hearing on the accusation and/or

1 petition to revoke probation, the Board shall provide the Respondent with a hearing within 30
2 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be
3 received from the Administrative Law Judge or the Board within 15 days unless good cause can
4 be shown for the delay. The cessation of practice shall not apply to the reduction of the
5 probationary time period.

6 If the Board does not file an accusation or petition to revoke probation within 15 days of the
7 issuance of the notification to cease practice or does not provide Respondent with a hearing
8 within 30 days of a such a request, the notification of cease practice shall be dissolved.

9 4. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
10 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
11 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
12 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
13 consider any information provided by the Board or designee and any other information the
14 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
15 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
16 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
17 psychiatric evaluations and psychological testing.

18 Respondent shall comply with all restrictions or conditions recommended by the evaluating
19 psychiatrist within 15 calendar days after being notified by the Board or its designee.

20 5. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
21 Respondent shall submit to the Board or its designee for prior approval the name and
22 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
23 has a doctoral degree in psychology and at least five years of postgraduate experience in the
24 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
25 undergo and continue psychotherapy treatment, including any modifications to the frequency of
26 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

27 The psychotherapist shall consider any information provided by the Board or its designee
28 and any other information the psychotherapist deems relevant and shall furnish a written

1 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
2 psychotherapist any information and documents that the psychotherapist may deem pertinent.

3 Respondent shall have the treating psychotherapist submit quarterly status reports to the
4 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
5 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
6 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
7 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
8 period of probation shall be extended until the Board determines that Respondent is mentally fit
9 to resume the practice of medicine without restrictions.

10 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

11 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
12 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
13 Chief Executive Officer at every hospital where privileges or membership are extended to
14 Respondent, at any other facility where Respondent engages in the practice of medicine,
15 including all physician and locum tenens registries or other similar agencies, and to the Chief
16 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
17 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
18 calendar days.

19 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

20 7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
21 prohibited from supervising physician assistants.

22 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
23 governing the practice of medicine in California and remain in full compliance with any court
24 ordered criminal probation, payments, and other orders.

25 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
26 under penalty of perjury on forms provided by the Board, stating whether there has been
27 compliance with all the conditions of probation.

28 Respondent shall submit quarterly declarations not later than 10 calendar days after the end

1 of the preceding quarter.

2 10. GENERAL PROBATION REQUIREMENTS.

3 Compliance with Probation Unit

4 Respondent shall comply with the Board's probation unit and all terms and conditions of
5 this Decision.

6 Address Changes

7 Respondent shall, at all times, keep the Board informed of Respondent's business and
8 residence addresses, email address (if available), and telephone number. Changes of such
9 addresses shall be immediately communicated in writing to the Board or its designee. Under no
10 circumstances shall a post office box serve as an address of record, except as allowed by Business
11 and Professions Code section 2021(b).

12 Place of Practice

13 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
14 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
15 facility.

16 License Renewal

17 Respondent shall maintain a current and renewed California physician's and surgeon's
18 license.

19 Travel or Residence Outside California

20 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
21 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
22 (30) calendar days.

23 In the event Respondent should leave the State of California to reside or to practice
24 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
25 departure and return.

26 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
27 available in person upon request for interviews either at Respondent's place of business or at the
28 probation unit office, with or without prior notice throughout the term of probation.

1 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
2 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
3 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
4 defined as any period of time Respondent is not practicing medicine in California as defined in
5 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
6 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
7 time spent in an intensive training program which has been approved by the Board or its designee
8 shall not be considered non-practice. Practicing medicine in another state of the United States or
9 Federal jurisdiction while on probation with the medical licensing authority of that state or
10 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
11 not be considered as a period of non-practice.

12 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
13 months, Respondent shall successfully complete a clinical training program that meets the criteria
14 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
15 Disciplinary Guidelines" prior to resuming the practice of medicine.

16 Respondent's period of non-practice while on probation shall not exceed two (2) years.

17 Periods of non-practice will not apply to the reduction of the probationary term.

18 Periods of non-practice will relieve Respondent of the responsibility to comply with the
19 probationary terms and conditions with the exception of this condition and the following terms
20 and conditions of probation: Obey All Laws; and General Probation Requirements.

21 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
22 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
23 completion of probation. Upon successful completion of probation, Respondent's certificate shall
24 be fully restored.

25 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
26 of probation is a violation of probation. If Respondent violates probation in any respect, the
27 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
28 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,

1 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
2 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
3 the matter is final.

4 15. LICENSE SURRENDER. Following the effective date of this Decision, if
5 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
6 the terms and conditions of probation, Respondent may request to surrender his or her license.
7 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
8 determining whether or not to grant the request, or to take any other action deemed appropriate
9 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
10 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
11 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
12 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
13 application shall be treated as a petition for reinstatement of a revoked certificate.

14 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
15 with probation monitoring each and every year of probation, as designated by the Board, which
16 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
17 California and delivered to the Board or its designee no later than January 31 of each calendar
18 year.

19 ACCEPTANCE

20 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
21 discussed it with my attorney, Courtney E. Pilchman, Esq. I understand the stipulation and the
22 effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated
23 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be

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1 bound by the Decision and Order of the Medical Board of California.

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3 DATED: 10/14/13

William K. Fleming
4 WILLIAM KERMIT FLEMING, M.D.
Respondent

5 I have read and fully discussed with Respondent WILLIAM KERMIT FLEMING, M.D.
6 the terms and conditions and other matters contained in the above Stipulated Settlement and
7 Disciplinary Order. I approve its form and content.

8
9 DATED: 10-16-13

Courtney E. Pilchman
10 Courtney E. Pilchman, Esq.
11 Attorney for Respondent

12 ENDORSEMENT

13 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
14 submitted for consideration by the Medical Board of California.

15 Dated: 10-18-13

Respectfully submitted,

16 KAMALA D. HARRIS
17 Attorney General of California
18 E. A. JONES III
Supervising Deputy Attorney General

19 Beneth A. Browne
20 BENETH A. BROWNE
21 Deputy Attorney General
22 Attorneys for Complainant

23 LA2012605879
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Exhibit A

Accusation No. 11-2010-211285

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA L. CASTRO
Supervising Deputy Attorney General
3 MICHEL W. VALENTINE
Deputy Attorney General
4 State Bar No. 153078
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5 Los Angeles, CA 90013
Telephone: (213) 897-1034
6 Facsimile: (213) 897-9395
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *December 6, 2012*
BY: *[Signature]* ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 11-2010-211285

12 **WILLIAM KERMIT FLEMING, M.D.**

13 **Whittier Hospital Medical Center**
14 **9080 Colima Road**
Whittier, CA 90605

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate**
16 **No. A 97279**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs.

24 2. On or about September 13, 2006, the Medical Board of California issued
25 Physician's and Surgeon's Certificate Number A97279 to William Kermit Fleming, M.D.
26 (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times
27 relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division¹ deems proper.

5. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

[. . .]

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

6. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any

¹ The term "Board" means the Medical Board of California "Division of Medical Quality" shall also be deemed to refer to the Board. (Bus. & Prof. Code, §2002.)

1 combination thereof, constitutes unprofessional conduct. The record of the
2 conviction is conclusive evidence of such unprofessional conduct.

3 “(b) A plea or verdict of guilty or a conviction following a plea of nolo
4 contendere is deemed to be a conviction within the meaning of this section. The
5 Division of Medical Quality may order discipline of the licensee in accordance with
6 Section 2227 or the Division of Licensing may order the denial of the license when
7 the time for appeal has elapsed or the judgment of conviction has been affirmed on
8 appeal or when an order granting probation is made suspending imposition of
9 sentence, irrespective of a subsequent order under the provisions of Section 1203.4
10 of the Penal Code allowing such person to withdraw his or her plea of guilty and to
11 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
12 accusation, complaint, information, or indictment.”

13 7. Section 2234 of the Code states:

14 “ The Board shall take action against any licensee who is charged with
15 unprofessional conduct. In addition to other provisions of this article, unprofessional
16 conduct includes, but is not limited to, the following:

17 “(a) Violating or attempting to violate, directly or indirectly, assisting in or
18 abetting the violation of, or conspiring to violate any provision of this chapter.”

19 [...]

20 “(f) Any action or conduct which would have warranted the denial of a
21 certificate.”

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Conviction of Substantially Related Crimes)

24 8. Respondent is subject to disciplinary action under section 2236, subdivision (a), of
25 the Code because Respondent was convicted of two offenses substantially related to the
26 qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

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2010 Conviction

9. On or about April 8, 2011, in the Superior Court of the State of California, for the County of Los Angeles, case number 1WA10292, entitled *People vs. William Kermit Fleming*, Respondent was convicted, upon his of plea of nolo contendere, to (Count 2), "driving under the influence of alcohol," a violation of Vehicle Code section 23152, subdivision (b), which makes it a misdemeanor "unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle." classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances."

An additional count (Count 1) for violating Vehicle Code section 23152, subdivision (a), was dismissed.

10. Respondent was placed on summary probation for 36 months, and fined a total of \$2,334.00. The conditions of Respondent's sentence included a requirement to successfully enroll, participate, and complete, a 3-month licensed first-offender alcohol and other drug education and counseling program. Respondent has complied with all that the Court ordered.

11. The circumstances surrounding Respondent's conviction are as follows: On November 11, 2010, at approximately 2:04 a.m., an El Segundo police officer observed a black Audi traveling north bound on Vista Del Mar from Grand Avenue in the City of El Segundo, California. The officer observed the vehicle weaving within lane #1 for approximately one-quarter of a mile. During that time, the vehicle was braking erratically and also straddled the lane divider for the #1 and #2 north bound lanes of traffic several times. Thereafter, a traffic stop was initiated and the driver, Respondent, was contacted. While the officer was speaking to Respondent, the officer noticed that Respondent's speech was slurred, and his eyes were glassy and watery. Based upon the officer's observations and physical objective symptoms of alcohol intoxication, Respondent was arrested and transported to a laboratory for a blood sample. The results of the blood test determined that Respondent's blood-alcohol level was 0.27%, more than three times the legal limit of 0.08%.

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1 16. The circumstances are as follows: The allegations of paragraphs 8 through 14 are
2 incorporated herein by reference as if fully set forth.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Unprofessional Conduct)

5 17. Respondent is subject to disciplinary action under section 2234, subdivision (a),
6 and (f), because he violated section 2236, subdivisions (a) and (d), of the Code by being
7 convicted of offenses substantially related to the qualifications, functions, or duties of a physician
8 and surgeon. The circumstances are as follows:

9 18. The allegations of paragraphs 8 through 14 are incorporated herein by reference as
10 if fully set forth.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Medical Board of California issue a decision:

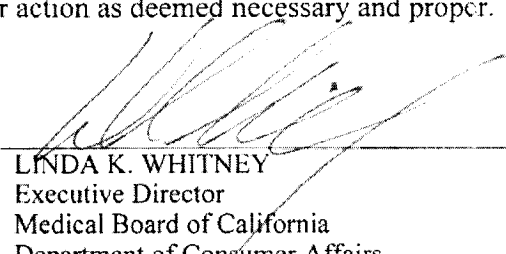
14
15 1. Revoking or suspending physician's and surgeon's Certificate Number A 97279,
16 issued to William Kermit Fleming, M.D.;

17 2. Revoking, suspending or denying approval of William Kermit Fleming, M.D.'s
18 authority to supervise physician assistants, pursuant to section 3527 of the Code;

19 3. If placed on probation, ordering William Kermit Fleming, M.D. to pay the Medical
20 Board of California the costs of probation monitoring; and,

21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: December 6, 2012

24 
25 LINDA K. WHITNEY
26 Executive Director
 Medical Board of California
 Department of Consumer Affairs
 State of California
 Complainant

27 1.A2012602818
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